

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

VS. CRIMINAL NO. 1:22cr58-LG-BWR

PATRICK DARNELL DANIELS

VOLUME III

TRIAL PROCEEDINGS

BEFORE THE HONORABLE LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE

JULY 26, 2022
GULFPORT, MISSISSIPPI

APPEARANCES:

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1 **THE COURT:** Good morning to everyone. Is the
2 government ready to proceed this morning?

3 **MS. ROSE:** Good morning, Your Honor. Yes, we are.

4 **THE COURT:** Is the defendant ready to proceed?

5 **MR. WEBER:** Yes, Your Honor.

6 **THE COURT:** Very well. Let the record reflect that
7 the Court has conducted an in-chambers charge conference at
8 which time there were some adjustments made to the Court's
9 proposed instructions. We'll now take up any objections that
10 either side may have to the Court's proposed instructions to
11 the jury. Mr. Buckner, Ms. Rose, on behalf of the government,
12 have you had an opportunity to review the Court's proposed
13 instructions?

14 **MR. BUCKNER:** Yes, Your Honor.

15 **THE COURT:** And the form of the verdict?

16 **MR. BUCKNER:** Yes, Your Honor.

17 **THE COURT:** Does the government have any objections
18 to the proposed jury instructions and form of the verdict?

19 **MR. BUCKNER:** No, Your Honor.

20 **THE COURT:** Mr. Weber and Ms. Tynes, have you also
21 had an opportunity review the Court's proposed instructions as
22 well as the form of the verdict?

23 **MR. WEBER:** Yes, Your Honor.

24 **THE COURT:** And did you have an opportunity to go
25 over them with Mr. Daniels?

1 **MR. WEBER:** Yes, Your Honor.

2 **THE COURT:** Does Mr. Daniels have any objections to
3 the Court's proposed instructions?

4 **MR. WEBER:** Yes, Your Honor. Specifically on Page 8,
5 the Court defines the phrase "unlawful user of a controlled
6 substance." We submitted to the Court a proposed definition of
7 that particular phrase. We provided the Court with two
8 alternatives, one was a definition from the Fifth Circuit case
9 of *United States versus Patterson*. And then the second -- the
10 alternative definition is from the case of *Morales-Lopez*,
11 that's the District of Utah case that was decided on June 30th
12 of 2022.

13 **THE COURT:** Would you like to submit your proposed
14 instruction that the Court has reviewed as an exhibit to this
15 hearing?

16 **MR. WEBER:** Yes, Your Honor.

17 **THE COURT:** Any objection?

18 **MR. BUCKNER:** No objection to the submission, Your
19 Honor. If the Court wants to hear argument from the
20 government, we can provide some for the record, but --

21 **THE COURT:** No, I've heard a lot of argument, but I
22 am going to stick with the definition that's used in the Eighth
23 Circuit that's taken from the Code of Federal Regulations. It
24 seems to me that not only be a more comprehensive definition of
25 a user, but it has also been tested in that circuit, as well as

1 in many other circuits and approved. But Mr. Weber, your
2 record is made. Your request for that instruction that you
3 have submitted, that is denied. I believe my instruction
4 covers it.

5 **MR. WEBER:** Yes, Your Honor. And at this time I
6 would also renew any Rule 29 motion for the record, and renew
7 both motions to dismiss that were filed on behalf of Mr.
8 Daniels.

9 **THE COURT:** Very well. As I have told you before,
10 the question of whether or not the statute is
11 unconstitutionally vague, I have taken that -- I have preserved
12 that matter pending the jury resolution of the case one way or
13 the other. The other motion is denied.

14 With the form of the verdict, does the defendant have any
15 objections to the form of the verdict?

16 **MR. WEBER:** No, Your Honor.

17 **THE COURT:** All right. I have discussed closing
18 arguments with both sides. The Court feels, under the
19 circumstances, 20 minutes is sufficient for closing arguments.
20 The government has elected to take 15 minutes on the first side
21 and 5 minutes at the end. And Mr. Weber, I think you will take
22 all 20 minutes in between.

23 Let the record also reflect that the Court intends to
24 instruct the jury first, that is to provide the jury with the
25 Court's instructions prior to closing arguments. And I also

1 intend to provide each member of the jury with a copy of the
2 Court's instructions that they may take back to the jury room
3 with them. Any objection to that procedure on behalf of the
4 government?

5 **MS. ROSE:** No objection, Your Honor.

6 **THE COURT:** Any objection to that procedure on behalf
7 of the defendant?

8 **MR. WEBER:** No, Your Honor.

9 **THE COURT:** In addition to that, I will also be
10 sending back a redacted copy of the charge, that is the
11 indictment, for the jury to follow along the actual charge.
12 Any objection to that procedure on behalf of government?

13 **MS. ROSE:** No, Your Honor.

14 **THE COURT:** Any objection by the defendant?

15 **MR. WEBER:** No, Your Honor.

16 **THE COURT:** Very well. I think that covers it for
17 me. Anything else that we need to take up at this time on
18 behalf of the government?

19 **MS. ROSE:** No, thank you, Your Honor.

20 **THE COURT:** Anything on behalf of the defendant?

21 **MR. WEBER:** No, Your Honor.

22 **THE COURT:** Very well. I appreciate all your help.
23 And counsel, we will be in recess until the jury has assembled.
24 I have asked them to assemble at 10:30, so that will give us at
25 least a 25-minute opportunity to prepare. We'll be in recess

1 to await the jury's return.

2 (RECESS TAKEN AT 10:03 A.M. UNTIL 10:33 A.M.)

3 THE COURT: I am advised that the jury is all here
4 and they are prepared to proceed. Is the government ready?

5 MS. ROSE: Yes, Your Honor.

6 THE COURT: Is the defendant ready?

7 MR. WEBER: Yes, Your Honor.

8 THE COURT: Please bring in the jury.

9 (JURY IN AT 10:35 A.M.)

10 THE COURT: Good morning, ladies and gentlemen. And
11 I hope that you are well. The parties have indicated to the
12 Court that they are ready to proceed. The Court has prepared
13 the instructions on the law. This, of course, is the law that
14 you must follow in returning a verdict in this case. I have
15 taken the liberty of making a copy of these instructions for
16 each of you so you can follow along with me as I read them, and
17 you will be permitted to take the instructions on the law back
18 to the jury room with you during deliberations.

19 Stanley, would you give each member of the jury a copy of
20 the instructions?

21 (JURY INSTRUCTIONS GIVEN)

22 Members of the jury, in any jury trial there are, in
23 effect, two judges. I am one of the judges; the other is the
24 jury. It is my duty to preside over the trial and to decide
25 what evidence is proper for your consideration. It is also my

1 duty at the end of the trial to explain to you the rules of law
2 that you must follow and apply in arriving at your verdict.

3 First, I will give you some general instructions which
4 apply in every case. For example, instructions about the
5 burden of proof and how to judge the believability of
6 witnesses. Then I will give you some specific rules of law
7 about this particular case. And finally, I will explain to you
8 the procedures you should follow in your deliberations.

9 You, as juror, are the judges of the facts, but in
10 determining what actually happened, that is in reaching your
11 decision as to the facts, it is your sworn duty to follow all
12 of the rules of law as I explain them to you.

13 You have no right to disregard or give special attention
14 to any one instruction, or to question the wisdom or
15 correctness of any rule I may state to you. You must not
16 substitute or follow your own notion or opinion as to what the
17 law is or ought to be.

18 It is your duty to apply the law as I explain it to you
19 regardless of the consequences. It is also your duty to base
20 your verdict solely upon the evidence, without prejudice or
21 sympathy. That was the promise you made and the oath you took
22 before being accepted by the parties as jurors, and they have
23 the right to expect nothing less.

24 The indictment or formal charge against a defendant is not
25 evidence of guilt. Indeed, the defendant is presumed by the

1 law to be innocent. The defendant begins with a clean slate.
2 The law does not require a defendant to prove his innocence or
3 to produce any evidence at all, and no inference whatever may
4 be drawn from the election of a defendant not to testify.

5 The government has the burden of proving the defendant
6 guilty beyond a reasonable doubt, and if it fails to do so you
7 must acquit the defendant. While the government's burden of
8 proof is a strict or heavy burden, it is not necessary that the
9 defendant's guilt be proved beyond all possible doubt. It is
10 only required that the government's proof exclude any
11 reasonable doubt concerning the defendant's guilt.

12 A reasonable doubt is a doubt based upon reason and common
13 sense after careful and impartial consideration of all the
14 evidence in the case. Proof beyond a reasonable doubt,
15 therefore, is proof of such a convincing character that you
16 would be willing to rely and act upon it without hesitation in
17 making the most important decisions of your own affairs.

18 As I told you earlier, it is your duty to determine the
19 facts. To do so, you must consider only the evidence presented
20 during the trial. Evidence is the sworn testimony of the
21 witnesses, including stipulations and exhibits. The questions,
22 statements, objections and arguments made by the lawyers are
23 not evidence.

24 The function of the lawyers is to point out those things
25 that are most significant or most helpful to their side of the

1 case, and in so doing to call your attention to certain facts
2 or inferences that might otherwise escape your notice. In the
3 final analysis, however, it is your own recollection and
4 interpretation of the evidence that controls in the case. What
5 the lawyers say is not binding upon you.

6 Do not assume from anything I may have done or said during
7 the trial that I have an opinion concerning any of the issues
8 in this case. Except for the instructions to you on the law,
9 you should disregard anything I may have said during the trial
10 in arriving at your own verdict.

11 In considering the evidence, you are permitted to draw
12 such reasonable inferences from the testimony and exhibits as
13 you feel are justified in the light of common experience. In
14 other words, you may make deductions and reach conclusions that
15 reason and common sense lead you to draw from the facts which
16 have been established by the evidence.

17 "Direct evidence" is the testimony of one who asserts
18 actual knowledge of a fact, such as an eyewitness.

19 "Circumstantial evidence" is proof of a chain of events and
20 circumstances indicating that something is or is not a fact.

21 Do not be concerned about whether evidence is "direct
22 evidence" or "circumstantial evidence." You should consider
23 and weigh all of the evidence that was presented to you.

24 The law makes no distinction between the weight to be
25 given either direct or circumstantial evidence. But the law

1 requires that you, after weighing all of the evidence, whether
2 direct or circumstantial, be convinced of the guilt of the
3 defendant beyond a reasonable doubt before you can find him
4 guilty.

5 I remind you that it is your job to decide whether the
6 government has approved the guilt of the defendant beyond a
7 reasonable doubt. In doing so, you must consider all of the
8 evidence. That doesn't mean, however, that you accept all of
9 the evidence as true or accurate.

10 You are the sole judges of the credibility or
11 believability of each witness and the weight to be given to the
12 witnesses's testimony. An important part of your job will be
13 making judgments about the testimony of the witnesses who
14 testified in the case. You should decide whether you believe
15 all, some part, or none of what each person had to say and how
16 important that testimony was. In making that decision, I
17 suggest that you ask yourselves a few questions: Did the
18 witness impress you as honest? Did the witness have any
19 particular reason not to tell the truth? Did the witness have
20 a personal interest in the outcome of the case? Did the
21 witness have any relationship with either the government or the
22 defense? Did the witness seem to have a good memory? Did the
23 witness clearly see or hear the things about which he or she
24 testified? Did the witness have the opportunity and the
25 ability to understand the questions clearly and answer them

1 directly? Did the witness's testimony differ from the
2 testimony of other witnesses? These are a few of the
3 considerations that will help you determine the accuracy of
4 what each witness said.

5 Your job is to think about the testimony of each witness
6 you have heard and decide how much you believe of what each
7 witness had to say. In making up your mind and reaching a
8 verdict, do not make any decisions simply because there were
9 more witnesses on one side than on the other. Do not reach a
10 conclusion on a particular point just because there were more
11 witnesses testifying for one side on that point. You will
12 always bear in mind that the law never imposes upon a defendant
13 in a criminal case the burden or duty of calling any witnesses
14 or producing any evidence.

15 A defendant in a criminal trial has a constitutional right
16 not to be compelled to testify. Further, you must neither
17 discuss this matter nor permit it to enter into your
18 deliberations in any way.

19 Certain exhibits have been identified as typewritten
20 transcripts of the oral conversations which can be heard on the
21 tape recordings also received into evidence. The transcripts
22 also purport to identify the speakers engaged in such
23 conversations.

24 I have admitted the transcripts for the limited and
25 secondary purpose of aiding you in following the content of the

1 conversations as you listen to the tape recordings, and also to
2 aid you in identifying speakers.

3 You are specifically instructed that whether the
4 transcripts correctly or incorrectly reflect the content of the
5 conversations or the identity of the speakers is entirely for
6 you to determine based upon your own evaluation of the
7 testimony you have heard concerning the preparation of the
8 transcripts and from your own examination of the transcripts in
9 relation to your hearing of the tape recordings themselves as
10 the primary evidence of their own contents. And if you should
11 determine that the transcripts are in any respect incorrect, or
12 unreliable, you should disregard them to that extent. It is
13 what you hear on the tapes that is evidence, not the
14 transcripts.

15 You are here to decide whether the government has proved
16 beyond a reasonable doubt that the defendant is guilty of the
17 crime charged. The defendant is not on trial for any act,
18 conduct, or other offense not alleged in the indictment.

19 If the defendant is found guilty, it will be my duty to
20 decide what the punishment will be. You should not be
21 concerned with punishment in any way. It should not enter your
22 consideration or discussion.

23 You will note that the indictment charges that the
24 offenses were committed on or about a specified date. The
25 government does not have to prove that the crime was committed

1 on that exact date, so long as the government proves beyond a
2 reasonable doubt that the defendant committed the crime on a
3 date reasonably near the date stated on the indictment.

4 Title 18 of the United States Code, Section 922, makes it
5 a crime for anyone to possess a firearm under certain
6 conditions. In this case, the defendant is charged with
7 knowingly possessing a firearm which was in and affecting
8 interstate or foreign commerce while knowingly being an
9 unlawful user of a controlled substance.

10 For you to find the defendant guilty of this crime, you
11 must be convinced that the government has proved each of the
12 following beyond a reasonable doubt:

13 First, that the defendant knowingly possessed a firearm;

14 Second, that at the time the defendant possessed the
15 firearm, the defendant was an unlawful user of a controlled
16 substance;

17 Third, the defendant knew he was an unlawful user of a
18 controlled substance;

19 And fourth, that the firearm possessed traveled in
20 interstate or foreign commerce; that is before the defendant
21 possessed the firearm, the firearm had traveled at some time
22 from one state to another or between any part of the United
23 States and any other country.

24 The term "firearm" means any weapon that will or is
25 designed to or may readily be converted to expel a projectile

1 by the action of an explosive.

2 Marijuana is a controlled substance within the meaning of
3 the law. The term "marijuana" means all parts of the plant,
4 cannabis sativa L, whether growing or not; the seeds thereof;
5 the resin extracted from any part of such plant; and every
6 compound, manufacture, salt, derivative, mixture, or
7 preparation of such plant, its seeds or resin.

8 The phrase "unlawful user of a controlled substance" means
9 a person who uses a controlled substance in a manner other than
10 as prescribed by a licensed physician. The defendant must have
11 been actively engaged in use of a controlled substance during
12 the time he possessed the firearm, but the law does not require
13 that he used the controlled substance at the precise time he
14 possessed the firearm. Such use is not limited to the use of
15 drugs on a particular day, or within a matter of days or weeks
16 before, but rather that the unlawful use has occurred recently
17 enough to indicate that the individual is actively engaged in
18 such conduct.

19 An inference that a person was a user of a controlled
20 substance may be drawn from the evidence of a pattern of use or
21 possession of controlled substance that reasonably covers the
22 time the firearm was possessed.

23 "Possession," as that term is used in these instructions,
24 may be one of two kinds: Actual possession or constructive
25 possession.

1 A person who knowingly has direct physical control over a
2 thing at a given time is in actual possession of it.

3 A person who, although not in actual possession, knowingly
4 has both the power and the intention, at a given time, to
5 exercise dominion or control over a thing, either directly or
6 through another person, or persons, is in constructive
7 possession of it.

8 Possession may be sole or joint. If one person alone has
9 actual or constructive possession of a thing, possession is
10 sole. If two or more persons share actual or constructive
11 possession of a thing, possession is joint.

12 You may find that the element of possession is present if
13 you find beyond a reasonable doubt that the defendant had
14 actual or constructive possession, either alone or jointly with
15 others.

16 The word "knowingly" as that term has been used from time
17 to time in these instructions, means the act was done
18 voluntarily and intentionally, not because of mistake or
19 accident.

20 To reach a verdict, whether it is guilty or not guilty,
21 all of you must agree. Your verdict must be unanimous on each
22 count of the indictment.

23 It is your duty to consult with one another and to
24 deliberate in an effort to reach agreement if you can do so.
25 Each of you must decide the case for yourself, but only after

1 an impartial consideration of the evidence with your fellow
2 jurors. Do not let bias, sympathy or prejudice that you may
3 feel toward one side or the other influence your decision in
4 any way. During your deliberations, do not hesitate to
5 reexamine your own opinions and change your mind if convinced
6 that you were wrong. But do not give up your honest beliefs as
7 to the weight or effect of the evidence solely because of the
8 opinion of your fellow jurors or for the mere purpose of
9 returning a verdict.

10 During your deliberations, you must not communicate with
11 or provide any information to anyone by any means about this
12 case. You may not use any electronic device or media, such as
13 a telephone, cell phone, smart phone, iPhone or computer, the
14 Internet, any Internet service or any text or instant messaging
15 service, or any Internet chatroom, blog, or website, such as
16 Facebook, LinkedIn, YouTube or Twitter, to communicate to
17 anyone any information about this case or to conduct research
18 about this case until I accept your verdict.

19 Remember at all times, you are judges, judges of the
20 facts. Your duty is to decide whether the government has
21 proved the defendant guilty beyond a reasonable doubt.

22 When you go to the jury room, the first thing that you
23 should do is to select one of your number as a foreperson who
24 will help to guide your deliberations and will speak for you
25 here in the courtroom.

1 A verdict form has been prepared for your convenience.
2 The foreperson will write the unanimous answer of the jury in
3 the space provided for each count of the indictment, either
4 guilty or not guilty. At the conclusion of your deliberations
5 the foreperson should date and sign the verdict.

6 Ladies and gentlemen, what that refers to, again, is a
7 verdict form that has been prepared in advance for your use
8 during deliberations, and you will have that in the jury room.

9 If you need to communicate with me during your
10 deliberations, the foreperson should write the message and give
11 it to the Court Security Officer. I will either reply in
12 writing or bring you back into court to answer your message.

13 Bear in mind that you are never to reveal to any person,
14 not even to the Court, how the jury stands numerically or
15 otherwise on any count of the indictment until after you have
16 reached a unanimous verdict.

17 Ladies and gentlemen, both sides have been given 20
18 minutes within which to make their closing arguments. The
19 government bears the burden of proof, and therefore they are
20 permitted to go first and permitted to go last, and the
21 defendant will make closing arguments in between. You may make
22 your closing arguments on behalf of the government.

23 **MS. ROSE:** Thank you, Your Honor.

24 **CLOSING ARGUMENT BY THE GOVERNMENT**

25 **MS. ROSE:** Your Honor, defense counsel, ladies and

1 gentlemen of the jury, nothing is missing. Nothing is missing.
2 This is a direct case. The government has proved each element
3 beyond a reasonable doubt. I am going to go through each
4 element with you right now. In the case of the United States
5 versus Patrick Daniels, Jr., first we had to prove this
6 happened on April 25th, 2022, that's not an issue. You heard
7 multiple folks testify to that.

8 It happened in Hancock County, which is in the Southern
9 Division of the Southern District of Mississippi. No disputes
10 there.

11 Patrick Darnell Daniels, Jr. was the person who committed
12 the offense. You heard Officer Bell identify him in court, and
13 you heard his statement in court, and then you see a photo of
14 his ID. That's also not at issue here.

15 That he knowingly possessed a firearm. In fact, in this
16 case, he knowingly possessed two firearms. You heard testimony
17 from Officer Bell that he approached the vehicle, smelled
18 marijuana and then did a search, and that search revealed two
19 firearms. The first firearm was found in the driver's seat,
20 between the driver's seat and the compartment there, which was
21 the Hellcat, the small gun, the firearm.

22 Then you also heard him testify that the second firearm
23 was found in the backseat, that's the assault rifle, the big
24 gun. You heard the defendant's statement, you heard him talk
25 about knowingly having those firearms. You heard him talk

1 about how he possessed them, how he got one of them as a
2 Father's Day gift from his girlfriend and how he got the other
3 gun from a friend who had passed away a New Year's Eve.

4 There were some questions asked of Officer Bell about the
5 eTrace system and about who possessed this gun, who owned this
6 gun. You just heard the law, ladies and gentlemen. There's
7 nothing about ownership. That doesn't matter. What matters
8 here is possession. And in this case, it's very clear that the
9 defendant possessed these guns. He was the only person in the
10 truck, he admitted that they were his firearms. Possession
11 here a clear. You knew he had them.

12 At the time of the charged act, the defendant was an
13 unlawful user of a controlled substance. You heard in opening,
14 defense counsel got up here and he said something is missing,
15 something is missing, and what's going to be missing is that he
16 is an unlawful user. And I submit to you that that is wrong.
17 That's not missing here. There's plenty of evidence that show
18 you he was an unlawful user of a controlled substance. You
19 heard the Court instruct you that the controlled substance is
20 marijuana in this case. And you heard testimony that the
21 substance here was tested at the DEA Crime Lab, it was
22 confirmed to be marijuana. You heard the defendant's
23 testimony, yes, I smoke marijuana. I have smoked since I was
24 in high school. I smoke at least 14 days out of the month.
25 You heard Officer Bell talk about when he pulled this car over

1 for the tag violation, he walked up to the vehicle and he
2 smelled marijuana, which is why he searched it in the first
3 place. And when he searched the vehicle, what did he find in
4 the car? The marijuana blunts, those same blunts that were
5 sent to the DEA Crime Lab and tested and confirmed to be
6 marijuana, a controlled substance.

7 A user of a controlled substance, an unlawful user, is a
8 person who uses a controlled substance in a manner other than
9 as prescribed by a licensed physician.

10 You heard the judge just instruct you on that, it's in
11 your instructions. There's no prescription here, he wasn't on
12 a prescription for marijuana. This isn't your regular everyday
13 medicinal drug. This is a controlled substance. He was an
14 unlawful user of a controlled substance and he knew he was an
15 unlawful user of a controlled substance. He talked about it in
16 his interview, he talked about it when he was meeting with
17 Officer Bell on the side of the road when he got pulled over
18 that day. Yes, I use marijuana. Yes, those blunts in the car
19 are from my use, I have been using since I was in high school.
20 Ladies and gentlemen, that meets the definition here. Nothing
21 is missing.

22 The possessed firearm traveled in interstate or foreign
23 commerce. Our second witness that testified yesterday, that
24 was Shane Lynes, who is an expert witness from the ATF. And he
25 talked to you about how both of those firearms were examined by

1 him and that at sometime they traveled between one state or
2 another, or they traveled from a foreign country. The
3 Springfield Armory Hellcat 9 mm pistol, you heard him talk
4 about that one was made in Croatia and then imported to
5 Springfield, Illinois, and then at some point ended up here in
6 Mississippi. So that's how that firearm traveled in interstate
7 commerce.

8 The second firearm, he discussed how that one had -- it
9 says on the side of the gun that it was made in Summerville,
10 South Carolina; however, it was actually manufactured in BCI
11 Defense in Indiana. He talked to you about how the different
12 pieces go as far as manufacturing, but then who has the rights
13 to the firearm, etcetera. It's all pretty simple. Neither of
14 these firearms were manufactured or came from Mississippi, so
15 that's how we meet that element.

16 Ladies and gentlemen, in conclusion, on April 25th of
17 2022, in Hancock County, in the Southern Division of the
18 Southern District of Mississippi, Patrick Darnell Daniels, Jr.
19 knowingly possessed a firearm, in this case two firearms. And
20 at the time of this act he was an unlawful user of a controlled
21 substance and he knew he was an unlawful user of a controlled
22 substance and that those firearms traveled in interstate or
23 foreign commerce.

24 This is a direct case, it's an easy case. Just because
25 the trial was short, just because there were only three

1 witnesses, just because there's only 29 exhibits, just because
2 this wasn't a giant ongoing investigation doesn't mean
3 something is missing. Nothing is missing. The government has
4 proved this case beyond a reasonable doubt as to each and every
5 element. And we would ask you to come back with the only
6 verdict that is consistent with the evidence, the facts and the
7 law in this case, and that is guilty. Thank you.

8 **THE COURT:** Thank you, Ms. Rose.

9 Mr. Weber, you may make your closing argument on behalf of
10 Mr. Daniels.

11 **CLOSING ARGUMENT BY THE DEFENSE**

12 **MR. WEBER:** May I retrieve a few exhibits, Your
13 Honor?

14 **THE COURT:** You may.

15 **MR. WEBER:** Ladies and gentlemen, this is not an easy
16 case. What you are asked to do is not easy. I disagree with
17 the government's characterization of what you are tasked to do,
18 and that is to determine whether or not the government has
19 proven their case against Patrick Daniels beyond a reasonable
20 doubt each and every element of the offense.

21 I told you in opening argument that something is missing,
22 and something is missing. What is missing is that evidence,
23 that proof beyond a reasonable doubt that will allow you to
24 conclude that the government did, in fact, prove their case.

25 Let's talk about, first, let's talk about the jury

1 instructions. Proof beyond a reasonable doubt, what is that
2 standard? That is evidence, facts, testimony, evidence that
3 will allow you to make a conclusion, so much so that you would
4 not hesitate to act in the most important of your affairs,
5 where you decide to send your children to school, where you
6 decide to live, who you decide to marry, what type of job.
7 Those are very important decisions that you would not hesitate
8 to act. And in this case, the evidence is not there and it
9 causes some hesitation. Something is missing.

10 Let's talk first about looking at the witnesses, three
11 witnesses that all testified. An officer -- Officer Bell
12 testified that he didn't realize that he was pulling over
13 Patrick Daniels. But ladies and gentlemen, look at the unique
14 characteristics of this vehicle that he pulled over allegedly
15 six weeks prior. You can't tell me that Officer Bell didn't
16 know who he was pulling over. I don't know why he wasn't
17 truthful with you about that, but something is missing.

18 And if he pulled him over on March 9th with guns and bags
19 of marijuana, where is that evidence? Where is the report?
20 Something is missing.

21 He was not smoking marijuana at the time of the stop.
22 There's no evidence that he ever used the AR-15. There's no
23 evidence that he ever used the 9-millimeter. There's no drug
24 test. There's no evidence that there's marijuana in Patrick
25 Daniels' system at the time of the stop. There's no evidence

1 of when he last used marijuana. And I think this is key.
2 Because the government has to prove active use of marijuana.
3 And what does that term mean? If he stopped two days before
4 this stop, is that active use? If he stopped using marijuana
5 two weeks prior to the stop, is that active use? If he stopped
6 a month, 30 days, 60 days, 6 weeks, is he actively using
7 marijuana at the time of the stop?

8 It's reasonable, ladies and gentlemen, to conclude that at
9 the time of the stop Patrick Daniels was not an active user of
10 marijuana. The government can't rule out that Patrick Daniels,
11 sometime prior to the stop, stopped using marijuana.

12 Now, there's a statement, there's an audio recording that
13 -- well, first off, at the time of the stop, Officer Bell
14 alleges that Patrick Daniels made these statements about using
15 marijuana 14 or 16 days out of the month, but we don't have a
16 recording of that. And you will see Government Exhibit G-24,
17 which is the audio recording, and G-24A, which is the
18 transcript that Officer Bell says -- and I will read it to you
19 if I can find it. You told me out on the scene that you were
20 using marijuana 14 days out of the month; is that correct? But
21 then he goes on to explain that he was living in his truck and
22 he stopped smoking in his house when I stayed there, and lately
23 since I been sleeping in my vehicle, I haven't really had money
24 to purchase any. That, ladies and gentlemen, leads you to
25 conclude that he had stopped using marijuana and he was not an

1 active user of marijuana. And the government is going to
2 probably hold this up to you when they rebut my closing and
3 say, well, this is proof of active use. You couldn't even role
4 a skinny joint with this.

5 The judge told us at the beginning of this trial that we
6 don't settle disputes on the dualing ground, and we don't take
7 away a citizen -- we don't take away Patrick Daniels' liberty
8 based on guessing and speculating. Patrick Daniels is not
9 guilty.

10 **THE COURT:** Thank you, Mr. Weber.

11 Mr. Buckner, you may finally close on behalf of the
12 government.

13 **MR. BUCKNER:** Thank you, Your Honor.

14 **CLOSING ARGUMENT BY THE GOVERNMENT**

15 **MR. BUCKNER:** Good morning, ladies and gentlemen of
16 the jury. May it please the Court.

17 Let's talk first about the standard of proof. The
18 standard of proof is a heavy burden as the Court indicated.
19 It's beyond a reasonable doubt, right, but then jury
20 instructions make it clear that's not all doubt. That's not.
21 We don't have to prove Mr. Daniels' guilt beyond all doubt;
22 it's beyond a reasonable doubt. And you have seen the
23 evidence, you have heard the testimony, you have heard
24 arguments. And basically, this case hinges upon whether the
25 government has proven that Mr. Daniels was an unlawful user of

1 a controlled substance when he possessed the firearms. That's
2 what the case hinges on. The other elements, they're there.
3 He clearly possessed the guns. The guns clearly traveled in
4 interstate and foreign commerce. So let's talk a little bit
5 about that unlawful user element.

6 If you look at the instructions, the judge says -- he
7 defines "unlawful user of a controlled substance," but there's
8 a second part to that, and that's this, that an inference that
9 a person was a user of a controlled substance may be drawn from
10 evidence of a pattern of use or possession of a controlled
11 substance that reasonably covers the time the firearm was
12 possessed. That's an inference you're permitted to make. The
13 law allows you to make that inference, okay?

14 So let's talk about what the evidence actually showed in
15 this case. Before we get to the specific pieces of evidence,
16 though, I want to talk about the two types of evidence. The
17 judge instructed you on direct evidence and circumstantial
18 evidence. In this case, we have both.

19 Direct evidence that Mr. Daniels was an unlawful user is
20 his confession that he was. He admitted it. He said, I smoke
21 marijuana 14 times a month. And you know what else is
22 interesting, the defense takes issue with the prior
23 conversation between Task Force Officer Bell and Mr. Daniels
24 not being recorded. Well, not only in making that admission
25 does Mr. Daniels admit that he used marijuana 14 times a month,

1 but he admits that he had the prior conversation with Officer
2 Bell. You get that? They're both there. But that's direct
3 evidence. He says I did it, okay, I smoked marijuana 14 times
4 a month.

5 Now, the other type of evidence is circumstantial
6 evidence. An example of circumstantial evidence would be --
7 first, direct evidence. Direct evidence that it had rained. I
8 saw it raining. That's direct evidence. Circumstantial
9 evidence that it rained is that I hear thunder, I walk outside
10 and the ground is wet. Circumstantial evidence says it rained,
11 right? In this case, we have got circumstantial evidence, as
12 well, that Mr. Daniels was an unlawful user. What's the
13 circumstantial evidence? Well, Officer Bell approaches the
14 vehicle and what does he smell? Smoked marijuana. He smells
15 it as he approaches. He searches the vehicle and what does he
16 find? Defense counsel is right, I'm going to hold it up:
17 Smoked marijuana. The reason there's not enough to roll a
18 blunt in here is because he smoked it all; it's used. That's
19 circumstantial evidence that he was an unlawful user of a
20 controlled substance that's corroborated by his confession.

21 Now, the defendant keeps saying that there's something
22 missing, there's something missing. Ladies and gentlemen, you
23 have heard the evidence, both direct and circumstantial. At
24 this point, the only thing missing is your verdict. Review the
25 evidence, look at the instructions, and return the verdict that

1 the evidence requires, and that is guilty. Thank you.

2 **THE COURT:** Thank you, Mr. Buckner.

3 Very well, then. Ladies and gentlemen of the jury, you
4 will now be asked to recess into the jury room to deliberate
5 upon your verdict. You will be provided all of the exhibits
6 that you may wish to review. You may take a copy of the
7 Court's instructions on the law with you as well. A verdict
8 form will be provided for you, and a copy of the indictment
9 will be provided for you as well.

10 For the remainder of the day, we will wait here until you
11 have actually reached your verdict. You may be excused.

12 **(JURY OUT AT 11:11 A.M.)**

13 **THE COURT:** I did not mention this to the jury, but I
14 do not intend to send the actual firearms back into the jury
15 room, there's plenty of photographs of the firearms, unless
16 they ask for it, I hope that they don't. But is there anything
17 else that we need to take up on behalf of the government?

18 **MR. BUCKNER:** Your Honor, I just want to flag an
19 issue for you. Depending on the result, there is a criminal
20 forfeiture that was included in the indictment. And the
21 defendant is entitled, if he so desires, to have the jury
22 determine the issue of forfeiture. And if he wants that, it
23 needs to be done before this jury is dismissed. So I have
24 discussed that with opposing counsel. Just wanted to flag that
25 for the Court before we get there, if we get there.

1 **THE COURT:** Very good. Anything else, then, on
2 behalf of the defendant before we recess for the jury verdict?

3 **MR. WEBER:** No, Your Honor.

4 **THE COURT:** Very well. All right. Be in recess to
5 await the verdict from the jury.

6 **(RECESS TAKEN AT 11:22 A.M. UNTIL 12:06 A.M.)**

7 **THE COURT:** I am advised that the jury has reached a
8 verdict. Is the government ready to proceed?

9 **MS. ROSE:** Yes, Your Honor.

10 **THE COURT:** Is the defendant ready to proceed, Mr.
11 Weber?

12 **MR. WEBER:** Yes, Your Honor.

13 **THE COURT:** Very well. Please bring in the jury.

14 **(JURY IN AT 12:08 P.M.)**

15 **(JURY VERDICT RETURNED AT 12:08 P.M.)**

16 **THE COURT:** Mr. Lafollette, I am given to understand
17 that you are the presiding juror in this case; is that correct?

18 **JURY FOREPERSON:** Yes, sir.

19 **THE COURT:** I am also advised that the jury has
20 reached a verdict; is that also correct?

21 **JURY FOREPERSON:** Yes, sir.

22 **THE COURT:** Is it a unanimous verdict?

23 **JURY FOREPERSON:** Yes, sir.

24 **THE COURT:** Would you please provide the verdict to
25 the Court Security Officer?

1 The verdict is in the appropriate form. I am going to ask
2 that the Clerk of the Court publish the verdict. Ladies and
3 gentlemen of the jury, that simply means she's going to read
4 it. As she reads the verdict, be sure that you listen
5 carefully to be sure that that is, in fact, your verdict.

6 Mr. Weber, would the defendant please rise.

7 Madam Clerk, you may publish the verdict of the jury.

8 **DEPUTY CLERK:** The United States District Court for
9 the Southern District of Mississippi, Southern Division.
10 United States of America versus Patrick Darnell Daniels, Jr.,
11 cause number 1:22cr58, Special Verdict Form, Count 1: We the
12 jury unanimously find the defendant, Patrick Darnell Daniels,
13 Jr., guilty beyond a reasonable doubt of knowingly possessing a
14 firearm, which was in and affecting interstate or foreign
15 commerce, while knowingly being an unlawful user of a
16 controlled substance as alleged in Count 1.

17 Signed by the foreperson on July 26, 2022.

18 **THE COURT:** Thank you. You may be seated. Anything
19 else on behalf of the government?

20 **MS. ROSE:** No. Thank you, Your Honor.

21 **THE COURT:** Anything else on behalf of the defendant
22 use.

23 **MR. WEBER:** Yes, Your Honor. I'd like to pole the
24 jury, please.

25 **THE COURT:** Very well. Ladies and gentlemen, the

1 defendant has the right to ask that the jury be polled. What
2 that means is I am going to ask each of you in turn if that is,
3 in fact, your verdict, that's the question. When I read your
4 name, if that is your verdict, say yes. If it is not your
5 verdict, say no.

6 Cassandra Lawless?

7 **JUROR:** Yes.

8 **THE COURT:** Michael Witt?

9 **JUROR:** Yes.

10 **THE COURT:** Tammy Lastinger?

11 **JUROR:** Yes.

12 **THE COURT:** Braden Hawkins?

13 **JUROR:** Yes.

14 **THE COURT:** Mickie Key?

15 **JUROR:** Yes.

16 **THE COURT:** Michelle McBride?

17 **JUROR:** Yes.

18 **THE COURT:** Darnell Hebert?

19 **JUROR:** Yes.

20 **THE COURT:** Glynis Williams?

21 **JUROR:** Yes.

22 **THE COURT:** KayeLynn Holman?

23 **JUROR:** Yes.

24 **THE COURT:** Thomas Lafollette?

25 **JUROR:** Yes.

1 **THE COURT:** Virginia Huntly?

2 **JUROR:** Yes.

3 **THE COURT:** And Thomas LeMaster?

4 **JUROR:** Yes.

5 **THE COURT:** Thank you. Mr. Weber, by my count all 12
6 have agreed it is, in fact, a unanimous verdict. Anything else
7 on behalf of the defendant?

8 **MR. WEBER:** No, Your Honor.

9 **THE COURT:** Very well.

10 Ladies and gentlemen of the jury, of course you have
11 concluded your work in this case, and you are also advised that
12 you do not have to call your number anymore. You have
13 completed not only your duty here, but you also have the
14 benefit of that two-year exemption.

15 Now, in an effort to memorialize that, we have prepared
16 some certificates of your attendance here today, as well as
17 some other materials that you may need to provide to your
18 employers. I am going to ask that you wait a few minutes back
19 in the jury room, I think it's going to be longer than a few
20 minutes, but a few minutes back in the courtroom before the
21 Clerk of the Court bring all of those materials to you.

22 In addition to that, I am advised that your lunches have
23 arrived. And even though you have completed your work, I would
24 encourage you to go ahead and sit back in the jury room, if you
25 wish, and enjoy that the lunches that the Court has provided.

1 We could not have anticipated that you would've returned a
2 verdict prior to their arrival, but be that as it may, they're
3 your lunches and you're welcome to either eat them here or take
4 them with you if you wish to do so.

5 In the meantime, let me, on behalf of the Court, on behalf
6 of the litigants, and on behalf of the lawyers in this case,
7 thank you, sincerely thank you for your duty, that is the duty
8 that you have undertaken to try this case and to reach a
9 verdict based on law and evidence.

10 If there's nothing else, thank you, ladies and gentlemen,
11 you may go back to the jury room.

12 **(JURY OUT AT 12:13 P.M.)**

13 **THE COURT:** I want to take up then, if we can, for
14 purposes of the record the question of forfeiture. I am given
15 to understand, Mr. Weber, that Mr. Daniels does not intend to
16 contest forfeiture of the weapons, the magazines and the
17 ammunition?

18 **MR. WEBER:** That's correct, Your Honor.

19 **THE COURT:** Anything else on behalf of the
20 government?

21 **MS. ROSE:** No. Thank you, Your Honor.

22 **THE COURT:** Pursuant to Rule 32.2 of the Federal
23 Rules of Criminal Procedure, the Court first finds that the
24 indictment did contain notice to the defendant that the
25 government would seek to forfeit the weapon, the magazines and

1 the ammunition in this case under the appropriate statute.

2 It's also the finding of the Court, pursuant to that same
3 rule, that based on the finding of the jury, the defendant was
4 in possession of these firearms and was an unlawful user of a
5 controlled substance, that the Court determines that the
6 government has established the requisite nexus between the
7 property and the offense.

8 I'll ask that the government prepare a preliminary order
9 of forfeiture, which I will enter, and will enter final
10 judgment at the time of sentencing.

11 Sentencing in this matter is scheduled for October 18th,
12 2022, at 1:30 p.m. here in Gulfport. That will be Mr. Daniels'
13 next scheduled court appearance. Again, that is October 18th,
14 2022, at 1:30 p.m.

15 Is there anything else we need to take up on behalf of the
16 government?

17 **MS. ROSE:** No. Thank you, Your Honor.

18 **THE COURT:** Mr. Weber, anything else we need to take
19 up on behalf of Mr. Daniels?

20 **MR. WEBER:** No, Your Honor.

21 **THE COURT:** Mr. Daniels is remanded back to the
22 custody of the U.S. Marshals. I'll ask that they return him
23 here on the 18th of October at 1:30 p.m. at which time we will
24 take up a sentencing hearing. And I'll look forward to getting
25 the preliminary order of forfeiture. If there's nothing else,

1 then we're adjourned.

2 (TRIAL CONCLUDED)

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2 CERTIFICATE OF COURT REPORTER

3
4 I, Sherri L. Penny, RPR, FCRR, Official Court Reporter
5 for the United States District Court for the Southern District
6 of Mississippi, appointed pursuant to the provisions of Title
7 28, United States Code, Section 753, do hereby certify that the
8 foregoing is a correct transcript of the proceedings reported
9 by me using the stenotype reporting method in conjunction with
10 computer-aided transcription, and that same is a true and
11 correct transcript to the best of my ability and understanding.

12 I further certify that the transcript fees and format
13 comply with those prescribed by the Court and the Judicial
14 Conference of the United States.

15
16
17 S/ Sherri L. Penny
18 OFFICIAL COURT REPORTER
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